

Exhibit 21

*State of California ex. rel. Ven-A-Care of the Florida Keys, Inc. v.
Abbott Laboratories, Inc., et al.*

Exhibit to the Declaration of Rita Hanscom in Support of
Plaintiffs' Opposition to Dey, Inc. and Dey, L.P.'s Motion for Partial Summary Judgment

CA Dept of Health Care Services (Stanley L Rosenstein)

November 6, 2008

Sacramento, CA

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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STATE OF CALIFORNIA, ex rel
VEN-A-CARE OF THE FLORIDA KEYS, INC.,
A Florida Corporation,

Plaintiffs,

vs. MDL No. 1456
Master File No.
01-12257-PBS
ABBOTT LABORATORIES, INC., Civil Action No.
Et al., 03-11226-PBS

Defendants.

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THURSDAY, NOVEMBER 6, 2008

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VIDEOTAPE DEPOSITION OF THE CALIFORNIA DEPARTMENT
OF HEALTH CARE SERVICES BY STANLEY L. ROSENSTEIN

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Reported By: PATRICIA McCARTHY, CSR No. 12888
Registered Professional Reporter

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1 happen, but none of the drug manufacturers have
2 come to me and made that disclosure.

3 Q. I think you were showed earlier in the
4 day an exhibit. I think it was Exhibit 5, a 1996
5 report by the OIG concerning its examination of
6 the discrepancy between AWPs and acquisition
7 costs for generic and branded drugs.

8 Do you recall that?

9 A. Yes.

10 Q. To your knowledge, did any manufacturer
11 come to the Medi-Cal program after the OIG issued
12 that report to offer help in reforming its
13 reporting of AWPs?

14 A. No.

15 Q. Did any manufacturer come to the
16 program expressing any concern about the
17 implications of that report to your knowledge?

18 A. Not to my knowledge, and never to me.

19 Q. If manufacturers AWPs had been reported
20 by the manufacturers owning those AWPs as actual
21 and accurate measures of their -- of the average
22 wholesale prices of those drugs, would that have

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1 affected Medi-Cal's efforts to contain its drug
2 reimbursement costs?

3 MR. BUEKER: Objection as to form.

4 THE WITNESS: Yes. We have been
5 spending -- we spent all day talking about the
6 effort we've had to get accurate pricing. Had we
7 started with accurate pricing, we wouldn't have
8 had to go through all of these changes, and we
9 would have had an accurate reimbursement system
10 in the Medi-Cal program. That would have saved
11 the taxpayers hundreds of millions of dollars.

12 BY MR. PAUL:

13 Q. If manufacturers had reported their
14 AWPs truthfully to the state, and by truthfully,
15 I mean, as an accurate measure of actual average
16 wholesale prices, would that have negated the
17 need for a MAC program?

18 MR. BUEKER: Objection as to form.

19 THE WITNESS: Yes. We would pay, have
20 the ability to pay pharmacies accurately. We
21 wouldn't have to come up with a secondary method
22 to get to honest data.

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1 BY MR. PAUL:

2 Q. So to your knowledge, no drug
3 manufacturer, and in particular, no generic drug
4 manufacturer made any effort to come to the
5 California Legislature and explain that actual
6 provider cost are value A and our AWPs are value
7 B, and here is the difference between them?

8 A. I am not aware of it. Generally, we
9 hear a lot of activity from the legislative
10 staff, have contacts. I am not aware of anybody
11 ever having that contact.

12 Q. Did you ever hear of any staffer or
13 legislator in either the Senate or the Assembly
14 state an acceptance of inflated AWPs or
15 acceptance of reimbursement from the Medi-Cal
16 program of pharmacy drugs based on inflated or
17 untruthful AWPs?

18 MR. BUEKER: Objection as to form.

19 MR. CYR: Objection.

20 THE WITNESS: No, I do not. In fact, I
21 have heard it quite the opposite of strong
22 objection to the government getting false

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1 information.

2 BY MR. PAUL:

3 Q. In your years as chief deputy director
4 for the Medi-Cal program and your 13 years as
5 deputy director or chief deputy director and your
6 30-some years experience with the Medi-Cal
7 program in general, do you believe that drug
8 manufacturers have an obligation to be truthful
9 in all due respects when they report any kind of
10 information to the Medi-Cal program on which the
11 program relies for reimbursement?

12 MR. BUEKER: Objection as to form and
13 beyond the scope.

14 THE WITNESS: Very much so. You know,
15 it is an underlying law and assumption that
16 people, when they interact with the government,
17 are going to tell the truth and provide accurate
18 information. The entire Medi-Cal program relies
19 upon the honesty of people who participate in
20 that program.

21 BY MR. PAUL:

22 Q. Has any representative of any generic

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1 MR. BUEKER: Objection as to form.

2 Beyond the scope.

3 THE WITNESS: I believe each study was
4 in the neighborhood of 200- to \$250,000.

5 BY MR. PAUL:

6 Q. And those monies came from public fund,
7 from the Medi-Cal program?

8 A. They came from the state and federal
9 government.

10 Q. Just to be clear, I want to confirm
11 with you whether or not, has it ever been the
12 policy of the Medi-Cal program to deliberately
13 accept inflated and inaccurate AWPs simply
14 because the program knew it would offset them by
15 shorting or minimizing the amount of the filling
16 fee for pharmacists?

17 MR. BUEKER: Objection as to form.

18 MR. CYR: Objection.

19 THE WITNESS: No. It has always been
20 our policy to have accurate information and to
21 use that information to establish what the
22 accurate price should be, should be on both ends

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1 of the equation. We do believe they need to be
2 both looked at, but they have got to come from
3 accurate data sources.

4 BY MR. PAUL:

5 Q. And are you aware, based on your
6 experience, that actually under federal law, it
7 is unlawful to offset ingredient cost payments
8 with a filling fee?

9 MR. BUEKER: Objection as to form and
10 lack of foundation. Calls for a legal
11 conclusion.

12 MR. CYR: Objection.

13 THE WITNESS: No, I am not aware of
14 that provision.

15 BY MR. PAUL:

16 Q. Based on your 13 years as deputy
17 director and chief deputy director and your 30
18 years in the program, can you state whether it
19 was or was not ever the policy of the Medi-Cal
20 program to deliberately accept the reporting by
21 drug manufacturers of inflated AWPs simply
22 because the program knew it would offset that

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1 with the receipt of rebates?

2 MR. BUEKER: Objection as to form.

3 THE WITNESS: It was never the policy

4 of the department to ever accept false

5 information. And we always looked at the

6 transaction, financial transaction, between the

7 department and the pharmacists as a totally

8 severable and different transaction between us

9 and the drug manufacturer.

10 MR. PAUL: That's all I have. Thanks.

11 MR. BUEKER: I have some further
12 questions.

13 (Break Taken)

14 VIDEOGRAPHER: We are now going back on
15 the record. The time is approximately 6:25.

16

17 FURTHER EXAMINATION

18 BY MR. BUEKER:

19 Q. Mr. Rosenstein, during Mr. Paul's
20 examination, he showed you Exhibit 38, do you
21 still have that in front of you?

22 A. Yes.

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